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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,457	10/15/2004	Peter Neumann	119065-064	9884
29177 K&L Gates LLP P.O. BOX 1135 CHICAGO, IL 60690	7590 09/01/2009			
EXAMINER				
DOAN, KIET M				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
09/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/511,457

Applicant(s)

NEUMANN, PETER

Examiner

KIET DOAN

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This office action is response to Applicant's remarks file one 06/12/2009.

➤ No claims are amended

Response to Arguments

2. Applicant's arguments filed 06/12/2009 have been fully considered but they are not persuasive.
3. In response to applicant's argument in claim 9 that the combination of prior art does not reject claim inventive concept and further address the word "sequence" acts like password in the transmission to base station and only send the "secret" sequence to certain mobile stations and then requires the same sequence back from any mobile station wants to establish a connection.
4. The examiner respectfully disagrees and the rejection is base on claim language and broadest reasonable interpretation. The examiner interpreted the word "sequence" is repeating or the following of one thing after another or continuous or multiple responses. Therefore, the combination of Yarwood and Vialen clearly teach the recited limitation in claims 9, 15 and 16.
5. The examiner also reminds the applicant that the **recent landmark KSR** ruling puts forth that simple substitution of one known element or application for another to a piece of prior art ready for improvement is not patentable under 35 USC 103(a).

Accordingly, the claims are viewed as a combination that only unites elements with no change in respective functions of those elements and said combination yields predictable results.

Absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill the claims are also deemed unpatentable.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 9, and 12-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yarwood (US 6,161,016) in view of Vialen et al. (US 2002/0019241 A1).

Consider **claim 9, 15 and 16**. Yarwood teaches a method for controlling establishment of connections to mobile stations present in an area of a disaster (Abstract, Paragraph [0024] teach provide connection in an event of emergency overload), the method comprising:

transmitting a sequence in a message sent to the mobile stations in at least one cell of a mobile radio network present in the area (Abstract, Col.3, lines 8-15 teach

repeating transmitting/paging signal periodically to mobile device). Yarwood teaches the claimed limitation as discussed above **but is silent on**

providing that a connection only be established from a mobile station in the area to a destination called by the mobile station if the mobile station requesting the connection establishment communicates the sequence.

In an analogous art, **Vialen teaches** providing that a connection only be established from a mobile station in the area to a destination called by the mobile station if the mobile station requesting the connection establishment communicates the sequence (Abstract, Paragraphs [0018-0020], [0041-0042], [0050] teach mobile requesting connection/paging message from core network and receiving multiple/multicall page message/response).

It would have been obvious at the time that the invention was made to modify Yarwood with Vialen's system, such that in an area of disaster, base station transmitting a sequence in a message sent to the mobile stations and in order to connection the mobile station establishment the sequence to provide means for the users capable transmitted or received service without interrupt or disconnect during emergency or system overload.

8. **Claims 10 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yarwood (US 6,161,016) in view of Vialen et al. (US 2002/0019241 A1) and further view of Lee et al. (US 2004/0242246 A1).

Consider **claim 10**. The combination of Yarwood and Vialen teach a method for controlling establishment of connections to mobile stations as claimed in claim 9, **but is silent on** wherein the sequence is transmitted as a cell broadcast short message.

In an analogous art, **Lee teaches** wherein the sequence is transmitted as a cell broadcast short message (Abstract, Paragraphs [0006], [0031-0032]). It would have been obvious at the time that the invention was made to modify Yarwood and Vialen with Lee's system such that the sequence is transmitted as a cell broadcast short message in order to prevent overload the system and fast way to communication with mobile device during emergency.

Consider **claim 11**. The combination of Yarwood and Vialen teach the method for controlling establishment of connections of mobile station as claimed in claim 9. Further Lee teaches wherein the sequence is transmitted as a circuit switched group call (Paragraphs [0016-0017] teach plurality of mobile device 114 read as group call).

9. **Claims 12-14** are rejected under 35 U.S.C. 103 (a) as being unpatentable over Yarwood (US 6,161,016) in view of Vialen et al. (US 2002/0019241 A1) and further view of Coles et al. (US 2006/0217153 A1).

Consider **claims 12 and 13**. The combination of Yarwood and Vialen teach the method for controlling establishment of connections of mobile stations as claimed in claim 9, **but is silent on** wherein the transmission of the sequence occurs via an SIM application toolkit of a mobile station, the SIM application toolkit prompting the mobile

station to transmit data representing at least one of a telephone number of the mobile station and a terminal number of the mobile radio to one of the mobile radio network and a destination.

In an analogous art, **Coles teaches** wherein the transmission of the sequence occurs via an **SIM** application toolkit of a mobile station, the **SIM** application toolkit prompting the mobile station to transmit data representing at least one of a telephone number of the mobile station and a terminal number of the mobile radio to one of the mobile radio network and a destination (Abstract, Paragraphs [0037-0038], [0041]). It would have been obvious at the time that the invention was made to modify Yarwood and Vialen with Coles's system such that the **SIM** application toolkit prompting the mobile station to transmit data representing at least one of a telephone number of the mobile station in order to secure and transmit to a correct phone/user.

Consider **claim 14**. The combination of Yarwood and Vialen teach a method for controlling establishment of connections of mobile stations as claimed in claim 9. Further, Coles teaches comprising scanning at least one of telephone numbers and mobile station device numbers of the mobile stations in the area to substantially ascertain which of the mobile stations are present in the area (Paragraphs [0020], [0034]).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIET DOAN whose telephone number is (571)272-7863. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kiet Doan/
Examiner, Art Unit 2617

/NICK CORSARO/
Supervisory Patent Examiner, Art Unit 2617